

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1096

Introduced by Assembly Member DeVore

February 23, 2007

An act to add and repeal Section 21159.28 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1096, as amended, DeVore. California Environmental Quality Act: housing exemptions.

~~(1) The~~

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA provides some exemptions from its requirements for specified projects, including a development project that consists of the construction, conversion, or use of residential housing for agricultural employees if specified requirements are met; a development project that consists of the construction, conversion, or

use of residential housing that is affordable to low-income households if specified requirements are met; or a residential project on an infill site within an urbanized area if specified requirements are met.

~~This bill would exempt from CEQA, until January 1, 2013, the construction of housing for agricultural employees, the construction of housing that is affordable to low-income households, and the construction of housing on an infill site in an urbanized area. By imposing new duties on a local agency to determine whether this exemption applies to a project, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would require the Office of Planning and Research, on or before January 1, 2009, to submit to the Legislature a report regarding the conditions in development of affordable housing projects affecting the use of existing statutory exemptions pursuant to CEQA.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. On or before January 1, 2009, the Office of
2 Planning and Research shall submit to the Legislature a report
3 regarding the conditions in development of affordable housing
4 projects affecting the use of existing statutory exemptions from
5 the California Environmental Quality Act (Division 13
6 (commencing with Section 21000) of the Public Resources Code),
7 including those available pursuant to Article 6 (commencing with
8 Section 21159.20) of Chapter 4.5 of Division 13 of the Public
9 Resources Code.

10 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
11 ~~following:~~

12 ~~(1) Article 6 (commencing with Section 21159.20) of Chapter~~
13 ~~4.5 of Division 13 of the Public Resources Code, which was~~
14 ~~enacted in 2002, by Senate Bill 1925, exempts from the California~~
15 ~~Environmental Quality Act (CEQA; Division 13 (commencing~~
16 ~~with Section 21000) of the Public Resources Code) a residential~~

1 project located on an infill site within an urbanized area, that meets
2 specified criteria. The stated intent of the Legislature in enacting
3 those provisions, included “creating a streamlined procedure for
4 agricultural employee housing, affordable housing, and urban infill
5 housing projects that do not have an adverse effect on the
6 environment.”

7 (2) Section 21152.1 of the Public Resources Code, which was
8 enacted by Assembly Bill 677 in 2003, requires a local agency or
9 specified person, when the local agency determines that a project
10 is exempt from CEQA for certain reasons, and it approves or
11 determines to carry out the project, to file notice of the
12 determination with the Office of Planning and Research.

13 (3) As of January 22, 2007, the Office of Planning and Research
14 has recorded one exemption as being filed as a result of Section
15 21152.1 of the Public Resources Code, under the “streamlined
16 procedure for agricultural employee housing, affordable housing,
17 and urban infill housing projects.”

18 (b) Because the streamlined procedures enacted by the
19 legislation specified in paragraphs (1) and (2) of subdivision (a)
20 have not resulted in appreciable construction of shelter, it is the
21 intent of the Legislature to declare a “CEQA Holiday” exemption
22 from the California Environmental Quality Act (Division 13
23 (commencing with Section 21000) of the Public Resources Code),
24 for a period of five years, for the construction of agricultural
25 employee housing, affordable housing, and urban infill housing
26 projects.

27 SEC. 2 Section 21159.28 is added to the Public Resources
28 Code, to read:

29 21159.28. (a) This division does not apply to any of the
30 following:

31 (1) The construction of housing for agricultural employees.

32 (2) The construction of housing that is affordable to low-income
33 households.

34 (3) The construction of housing on an infill site, as defined by
35 Section 21061.3, in an urbanized area, as defined by Section 21071.

36 (b) For purposes of this section, “low-income households”
37 means households of persons and families of very low and low
38 income, as defined in Sections 50093 and 50105 of the Health and
39 Safety Code.

1 ~~(e) This section shall remain in effect only until January 1, 2013,~~
2 ~~and of that date is repealed, unless a later enacted statute, that is~~
3 ~~enacted before January 1, 2013, deletes or extends that date.~~

4 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
5 ~~Section 6 of Article XIII B of the California Constitution because~~
6 ~~a local agency or school district has the authority to levy service~~
7 ~~charges, fees, or assessments sufficient to pay for the program or~~
8 ~~level of service mandated by this act, within the meaning of Section~~
9 ~~17556 of the Government Code.~~